

JAMES T. BURTON (Utah Bar No. 11875)\*

*jburton@kmclaw.com*

JOSHUA S. RUPP (Utah Bar No. 12647)\*

*jrupp@kmclaw.com*

**KIRTON | McCONKIE**

Key Bank Tower

36 South State Street, Suite 1900

Salt Lake City, Utah 84111

Telephone: (801) 328-3600

Facsimile: (801) 321-4893

\* Admitted *Pro Hac Vice*

JEFFREY A. LINDENBAUM (LM1980)

*jlindenbaum@collenip.com*

LISA A. MCANDREWS (JL-1971)

*lmcandrews@collenip.com*

**COLLEN IP**

The Holyoke-Manhattan Bldg.

80 South Highland Avenue

Ossining, NY 10562

Telephone: (914) 941-5668

Facsimile: (914) 941-6091

*Attorneys for Defendant*

*USANA Health Sciences, Inc.*

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK (FOLEY SQUARE)**

---

DEVPAT AB

Plaintiff,

vs.

USANA HEALTH SCIENCES, INC.

Defendant.

Case No. 1:17-cv-2858 (JGK) (KHP)

**DEFENDANT'S NOTICE OF MOTION  
TO DISMISS OR, IN THE  
ALTERNATIVE, TO TRANSFER VENUE**

Judge John G. Koeltl

---

PLEASE TAKE NOTICE that, Defendant USANA Health Sciences, Inc. ("USANA"), by and through counsel, hereby moves the Court to dismiss Plaintiff's Complaint in the above-captioned matter based on improper venue under Rule 12(b)(3) of the Federal Rules of Civil

Procedure. In the alternative, USANA moves the Court for an order transferring this matter to the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1404.

DATED this 12th day of July, 2018.

**KIRTON McCONKIE**

By: /s/ James T. Burton

James T. Burton  
Joshua S. Rupp  
*Attorneys for Defendant*  
*Usana Health Sciences, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 12th day of July, 2018, I caused a copy of the foregoing be served on all counsel of record using the Court's CM/ECF electronic filing system.

/s/ James T. Burton